

REMARKS

Applicants first would like to thank the Examiner for the helpful telephone discussions concerning this application. Claims 26-41 were pending in the application prior to the present amendment, with claims 26-37 subject to rejection and claims 38-41 withdrawn from consideration. Claims 26-41 have been canceled and replaced with new claims 42-55. Each of the rejections is addressed as it pertains to the new claims corresponding to the rejected claims. A table showing correspondence of the rejected claims and the new claims is as follows.

Prior Claim	New Claim
26	42
27	43
28	44
29	45
30	46
31	47
32	Canceled
33	Canceled
34	Canceled
35	48
36	Canceled
(35)	49
(35)	50
	51
37	52
(37)	53
(37)	54
(37)	55

Claim Objections

Claims 26-37 were objected to for inconsistent recitation of the disclosed antigen, aurora-A protein kinase. This objection has been met by consistent recitation of the antigen in the new claims, according to the Examiner's request (aurora-A protein kinase).

Claim 31 was objected to for use of the term "vector," which the Examiner states should be replaced with "vehicle." New claim 47, which corresponds to prior claim 31, includes the term "vehicle" in place of "vector."

Claims 32-34 were objected to for reciting "a method for in vitro diagnostic or prognostic of cancers." These claims have been canceled and there are no new claims that correspond to them.

Claim 36 was objected to for omitting a comma after the term "respectively" in line 3. Claim 36 has been canceled and there is no new claim that corresponds to this claim.

In view of the above, Applicants submit that the claim objections have been met and may now be withdrawn.

Rejections under 35 U.S.C. § 101

Claims 26-37 were rejected under 35 U.S.C. § 101 on the basis that the claims read on antibodies or antibody fragments that may be found in nature. This rejection has been met by the specification in new claim 42, which corresponds to prior claim 26, that the antibody is "isolated," consistent with the Examiner's suggestion. This amendment addresses this rejection as it pertains to the remaining claims, which each make reference to the antibody of claim 42.

Claims 32-34 were rejected as being drawn to non-statutory subject matter. These claims have been canceled and no corresponding claims have been added.

In view of the above, Applicants submit that the rejection under 35 U.S.C. § 101 has been met and may now be withdrawn.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 27 and 32-37 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite on several grounds, which are addressed below.

Claim 27 was rejected for lacking antecedent basis for the phrase “where aurora-A protein is secreted.” This rejection has been addressed in corresponding new claim 43 by modification of this phrase to specify “where the human or murine aurora-A protein kinase is secreted.”

Claims 32-37 were rejected for reciting the limitation “a monoclonal antibody according to claim 26,” which is drawn to the “35C1 antibody.” Claims 28-30 were rejected for reciting “said 35C1 antibody,” which Applicants assume was considered objectionable without there being a reference to claim 26 in these claims. These rejections have been met in the new claims by reference to the 35C1 antibody in the dependent claims as “the 35C1 antibody of claim 42.”

Claims 35-37 were rejected for including the phrase “if appropriate.” This phrase does not occur in new corresponding claims 48 (corresponds to claim 35) and 52 (corresponds to claim 37; there is no new claim corresponding to claim 36). Consistent with the Examiner’s suggestion, dependent claims 49-51 have been added to specify that the antibody is fixed on a solid support and the detection is made after rinsing the solid support (claim 49); quantitation of

the aurora-A protein kinase that may be present in the sample (claim 50); and that the cancers are solid tumors selected from the group consisting of breast cancers, stomach cancers and colorectal cancers (claim 51).

Claim 35 was rejected for reciting “using marked reagents, in particular marked antibodies,” on the basis that the first part of this phrase is a broad range and the second part is a narrow range. This rejection has been met in corresponding new claim 48, which does not include “in particular marked antibodies.”

Claims 35-37 were rejected on the basis that claim 35 recites “in the complexes formed during the preceding stage” and there is insufficient antecedent basis for this limitation in the claim. This rejection has been met in corresponding new claim 48, which does not include reference to the complexes formed during the preceding stage.

Claims 35-37 were rejected on the basis that claim 35 recites “this, if necessary, after appropriate rinsing of the solid support,” on the basis that it is not clear whether “if necessary” indicates that the step is optional or if in performance of the method one must determine whether or not to rinse. This rejection has been met in corresponding new claim 48, which does not include reference to the possibility of rinsing.

Claims 33, 34, and 37 were rejected for including the phrase “such as.” This rejection has been met in new claim 52, which corresponds to claim 37, which does not include the phrase “such as.” There are no new claims that correspond to claims 33 and 34.

Claims 36 was rejected for the recitation concerning determination of a quantity of aurora-A protein, on the basis that claim 35 does not provide for obtaining a test sample and a control sample, or using a control sample as a basis for comparison. Claim 36 has been canceled and there is no corresponding claim pending.

Claim 37 was rejected for reciting "a cell proliferation marker, such as a marker of the PCNA protein." This rejection has been met by separation of these two recitations into two new claims 53 and 54.

In view of the above, Applicants submit that the rejections under 35 U.S.C. § 112, second paragraph have been met and may now be withdrawn.

CONCLUSION

Applicants submit that the claims are in condition for allowance, and such action is respectfully requested. If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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